

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 8013

BILL NUMBER: HB 1638

DATE PREPARED: Feb 15, 2001

BILL AMENDED: Feb 15, 2001

SUBJECT: Alcoholic Beverage Commission.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill changes the name of the Alcoholic Beverage Commission to the Alcohol and Tobacco Commission. The bill provides for resolving a tie vote of the Commission. The bill establishes experience requirements for the superintendent of law enforcement officers. The bill allows a permittee to give notice of an application by placing a sign on the affected property in some circumstances. The bill allows the Commission to accept payment by credit card, money order, or electronic transfer. The bill allows an Internet company to obtain a salesman's permit. The bill prohibits the issuance of an employee's permit to certain persons convicted of operating while intoxicated.

The bill allows express hotels to sell alcoholic beverages. The bill allows hotels to set different prices for alcoholic beverages served in different restaurants in the same hotel complex.

The bill revises the fee schedule for permits.

The bill allows wine dealers to make home deliveries of wine. It also increases criminal penalties.

The bill imposes interest, a late payment penalty, and the reasonable costs of collection on a person who fails to make a timely payment of an infraction payable to the Youth Tobacco Education and Enforcement Fund. The bill makes it a Class C infraction for a person to purchase tobacco for a minor. The bill allows certain tobacco notices to have alternative language approved by the Commission.

The bill allows a primary source to sell and ship a limited amount of wine from the location described in the primary source's basic permit from the federal Bureau of Alcohol, Tobacco, and Firearms to an adult resident of Indiana if certain conditions are met.

It allows the Department of Parks and Recreation in Portage to permit the retail sale of alcoholic beverages in the city's park and recreation facilities including the carryout sale of alcoholic beverages if the Department

first secures the necessary permits required under IC 7.1. The bill amends the definition of "distribute" for purposes of the youth tobacco laws.

The bill allows the Indiana Alcoholic Beverage Commission to provide alternative words for notices that are required to be posted on vending machines that sell tobacco. The bill makes changes regarding the advertisement of tobacco products on signs or billboards.

The bill allows a facility that operates a paved track that is used primarily in the sport of auto racing to allow a person to enter its establishment with alcoholic beverages.

The bill also makes other changes.

Effective Date: July 1, 2001.

Explanation of State Expenditures: *Administrative Changes:* The Alcoholic Beverage Commission (ABC) may experience an increase in administrative costs related to the changes proposed in this bill. However, any additional costs are expected to be absorbed through administrative action using existing funds and resources.

Explanation of State Revenues: (Revised) *Acceptance of Credit Cards:* This provision would allow the ABC to accept payment of application and license fees by credit cards. The impact of this bill on the Commission will depend on several factors including, the type of cards the Commission authorizes for use, the number of application and license fees that are paid by credit card, the fees the Commission would charge on transactions with a card, and the ability of the Commission to charge processing fees to customers who use the cards.

Credit card companies charge establishments on each transaction. This charge is typically a percentage of an item's purchase price: the percentage may vary depending on the amount of the transaction, retailer's sales volume, and other factors. The fee is subtracted from the amount the issuing banks remit back to the establishment. Of three major card companies, Visa, MasterCard, and Discover, only Discover allows establishments to charge card users a processing fee to cover its charges to the establishments. Visa and MasterCard have revoked an establishment's authority to process credit card transactions if a card user is charged a transaction fee. Visa and MasterCard may allow the ABC to assess a fee if the Commission were able to add an additional service-related fee to the card's use. (For example, the renewal of licences or permits by phone or the Internet.)

The Bureau of Motor Vehicles' experience with the use of credit cards indicates that with respect to the total number of transactions, Visa and MasterCard were used 11% of the time, whereas the Discover card was used 1-1 ½% of the time.

Based on this information, the ABC could experience a reduction in revenue if the Commission decides to accept credit cards and is not able to charge its customers a processing fee. Revenue collected from ABC permits and licenses are deposited in the state General Fund, the ABC's Enforcement and Administration Fund, and Excise Police Retirement Fund. In FY 2000, the ABC collected approximately \$8.1 M in permit and license fees. If 12.5% of the customers used credit cards, an annual processing fee would be assessed on \$1,012,500 (12.5% of the \$8.1 M). Assuming that the processing fee is 1 ½ %, the ABC's revenue would be reduced by \$15,188. If, however, the Commission is able to charge credit card users a transaction fee when cards are used, the reduction in revenue to these funds may be partially mitigated.

Employee Permit Limitations: Prohibiting the ABC from issuing an employee permit to certain persons convicted of operating while intoxicated could cause a slight reduction in permit fees. There are approximately 90,000 employee permit holders in the state. The license fee for employee permits is \$20, paid biennially. Revenue from these permits is deposited in the ABC's Excise Police Retirement Fund.

Hotels and Permit Fees: The bill allows certain express hotels to serve alcohol. Under current law, a hotel must have more than fifty sleeping rooms and have a regular dining room to serve alcohol. The provision could generate revenue if alcoholic beverage permits are issued to express hotels. Revenue from the sale of hotel permits is deposited into the ABC's Excise Fund.

Fees: The bill simplifies and restructures the fee schedule for alcoholic beverage permits and also makes changes to fees charged for some of the permits deposited into the ABC's Excise Fund. The ABC estimates that the changes in the fees will increase revenue to the Excise Fund by approximately \$630,000. Approximately \$210,000 (1/3) of this increase will be deposited in state General Fund. The remaining portion of Excise Fund revenue is allocated to cities, towns, and counties based on where a permittee is located. *Information regarding changes in the fees of specific permits is available from the Legislative Services Agency.*

Penalty Provisions: The bill increases the penalty for certain violations related to the misrepresentation of a minor's age from a Class C to a Class B misdemeanor. The bill also makes it a Class C infraction to purchase tobacco for a person under eighteen. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class C infraction is \$500. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Youth Tobacco Education and Enforcement Fund: This bill removes the requirement that specified amounts of the money in the Youth Tobacco Education and Enforcement Fund be used for specified purposes. The bill also sets fines for the untimely payment of fines payable to the Fund and makes violators liable for expenses incurred by the Commission in pursuing a civil penalty. Any additional fines would be paid to the Youth Tobacco Education and Enforcement Fund.

Alcohol Sales in Portage Parkes: If permits were obtained to support the sale of alcohol in Portage's parks and recreation areas, revenue to the Alcoholic Beverage Commission's Excise Fund would increase slightly. One-third of the revenue deposited into the Excise Fund from permit fees is distributed to the state General Fund.

Wine Shipments: Wine purchased out-of-state for delivery in Indiana would be subject to Indiana's sales and use tax. The sales and use tax is assessed at a rate of 5% of an item's price. This bill's impact on state sales and use tax collections is expected to be negligible. (Under Indiana law, sales taxes paid on the purchase price of an item in another state may be credited against use taxes owed in Indiana.)

Explanation of Local Expenditures: *Penalty Provisions:* A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: (Revised) *Permit Fees:* Two-thirds of the Excise Fund revenue from

permit fees is distributed to the general fund of cities, towns, and counties based on where the permittee is located. The fee increases proposed in this bill are estimated to increase the Excise Fund distribution to cities, towns, and counties by \$420,000.

Alcohol Sales in Portage Parkes: If more permits are issued, Portage and Porter County would receive a slight increase in permit fee revenue as distributed through the Excise Fund. Two-thirds of the Excise Fund revenue from permit fees is distributed to the general fund of cities, towns, and counties based on where a permittee is located.

Penalty Provisions: If additional court actions occur and a judgement is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Alcoholic Beverage Commission.

Local Agencies Affected: Trial courts, local law enforcement agencies; Porter County, City of Portage.

Information Sources: Clifford Ong, Chairman, Alcoholic Beverage Commission, (317) 232-7444; John Ryan, Department of Natural Resources, (317) 232-3441.